

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/04/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000410

FILED: _____

STATE OF ARIZONA

ROY E HORTON

v.

CONNIE LYNN SEMBACH

TODD K COOLIDGE

FINANCIAL SERVICES-CCC
MESA CITY COURT
REMAND DESK CR-CCC

MINUTE ENTRY

MESA CITY COURT

Cit. No. 723989

Charge: 1. DUI ALCOHOL
2. DUI WITH A .10 BAC OR MORE

DOB: 04/14/65

DOC: 07/22/00

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

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This matter has been under advisement and this Court has considered and reviewed the record of the proceedings from the Mesa City Court, and the Memoranda submitted by counsel.

The only issue presented in this appeal is whether the trial judge erred in denying Appellant's Motion to Suppress the results of the blood analysis performed upon Appellant after her arrest. Appellant complains that the State is unable to prove that the phlebotomist who withdrew Appellant's blood was qualified, without resort to hearsay evidence. The phlebotomist who performed the blood draw upon Appellant has moved out of the jurisdiction and was not available to testify. The trial judge specifically admitted hearsay evidence of the phlebotomist's qualifications, finding this issue presented a preliminary question of admissibility as described in Rule 104¹ which permits the trial court to consider hearsay evidence in resolving preliminary questions of qualifications.

Most importantly, A.R.S. Section 28-1388(A) provides in part:

The qualifications of the individual withdrawing blood and the method used to withdraw the blood are not foundational prerequisites for the admissibility of a blood alcohol content determination made pursuant to this subsection.

This Court specifically finds that the trial judge did not err in considering hearsay evidence of the qualifications of the phlebotomist who withdrew Appellant's blood, though that phlebotomist was not able to testify.

IT IS ORDERED affirming the trial court's denial of Appellant's Motion to Suppress the results of the blood draw.

¹ Arizona Rules of Evidence.
Docket Code 513

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IT IS FURTHER ORDERED affirming the judgments of guilt and sentences imposed by the Mesa City Court.

IT IS FURTHER ORDERED remanding this matter back to the Mesa City Court for all further and future proceedings in this case.